

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	Cr. No. 05-00189DAE-01
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
KEITH IMAI,	)	MEMORANDUM IN SUPPORT OF
(01)	)	MOTION
	)	
Defendant.	)	
	)	

MEMORANDUM IN SUPPORT OF MOTION

Under Rule 6(e)(2) of the Federal Rules of Criminal Procedure, proceedings before a grand jury are secret, subject to certain exceptions. The Court may authorize disclosure “(i) preliminary to or in connection with a judicial proceeding; or (ii) at the request of a defendant who shows that a ground may exist to dismiss the indictment because of a matter that occurred before the grand jury. Fed. R. Crim. P. 6(e)(3)(E).

Courts grant disclosure of matters occurring before the grand jury upon a showing of a “particularized need.” See e.g., Illinois v. Abbott & Assoc., Inc., 460 U.S. 557, 567 (1983). This generally requires a showing of a substantial likelihood of gross or prejudicial irregularities in the conduct of the grand jury. See e.g., United States v. Budzanoski, 462 F.2d 443, 454 (3<sup>rd</sup> Cir.), cert. denied, 409 U.S. 949 (1972).

In the instant case, the Government does not have any evidence except testimonies from various individuals (some of whom are either co-defendants or undisclosed “confidential sources”) who claim that Defendant Imai was a leading figure in drug distribution on the island of Hawaii. Other than witness statements, no other evidence was

recovered to substantiate the allegations in the indictment. Therefore, Defendant should be entitled to examine the grand jury testimony of witnesses against him. The transcripts are necessary to prepare for trial, and cross-examine witnesses in the event of any inconsistencies that may arise. Without the grand jury transcripts, Defendant will not be able to know if a witness testified inconsistently before the grand jury.

Defendant Imai has shown a particularized need for the disclosure of the grand jury transcripts. Based on the foregoing, Defendant respectfully requests the Court grant the instant motion, and order disclosure of the grand jury transcripts.

Dated: Honolulu, Hawaii 3/8, 2006.

A handwritten signature in black ink, appearing to read 'Myles S. Breiner', is written over a horizontal line.

MYLES S. BREINER

Attorney for Defendant  
KEITH IMAI